

REMARKS

Claims 4, 6-11, 15, 17-40, 42, and 43 have been cancelled.

Claims 1, 12, and 41 have been amended to recite a method for treating an animal against a bacterium induced disease which is caused by *Brucella* species, *Agrobacterium* species, *Rhizobium* species, or *Helicobacter* species. Support for this amendment can be found in the original claims 10-11, 21-22, and 42. No new matter has been introduced with these amendments.

With these amendments, claims 1-3, 5, 12-14, 16, 41, and 44 are pending.

Rejection of claims 1-3, 5, and 9-11 under 35 U.S.C. § 112, second paragraph

Claims 1-3, 5, and 9-11 have been rejected under 35 U.S.C. § 112, second paragraph for allegedly being indefinite. In particular, the Office asserts that in claim 1 the term “said microbe” lacks the antecedent basis of support from the new limitation “bacterium”. Applicants have amended claim 1 to recite “said bacterium”, thereby obviating the rejection.

Rejection of claims 1-3, 12-14, and 41 under 35 U.S.C. § 102(b)

Claims 1-3, 12-14, and 41 stand rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Brasseur *et al.* (*Antimicrob. Agents Chemother.*, 1993, 37(4), 889-892; ‘Brasseur’) alone or as evidenced by Barbes *et al.* (*FEMS Microbiology Letters*, 1990, 69(3), 239-243).

Applicants respectfully submit that Brasseur teaches using sinefungin to treat adult rats infected with *Cryptosporidium parvum*. *Cryptosporidium parvum*, an intracellular parasite, is a protozoa. Protozoa is one-celled eukarote. Therefore, *C. parvum* is not a bacteria species. The currently amended claims recite methods for treating a bacterium induced disease or condition, and in particular, disease which is caused by *Brucella* species, *Agrobacterium* species, *Rhizobium* species, or *Helicobacter* species. Thus, Brasseur does not anticipate claims 1-3, 12-14, and 41.

Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection of claims 1-3, 6, 9-14, and 20-22 under 35 U.S.C. § 102(b)

Claims 1-3, 6, 9-14, and 20-22 stand rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Heithoff *et al.* (*Science*, 1999, 284(5416), 967-970; 'Heithoff'), which is concerned with the prevention and/or treatment of microbial diseases.

Applicants respectfully disagree with the Office, however in order to expedite the prosecution claims have been amended to recite bacterium induced disease or condition caused by *Brucella* species, *Agrobacterium* species, *Rhizobium* species, or *Helicobacter* species. Applicants respectfully submit that the rejected claims are supported under 35 U.S.C. § 112, 1st paragraph by the disclosure of PCT/US97/16593 (filed September 17, 1997), from which priority is properly claimed under 35 U.S.C. 365(c). In particular, support can be found in paragraph bridging pages 5 and 6, and Examples 2-4

Therefore, the proper priority date for the rejected treatment claims is September 17, 1997, and Heithoff is not available as prior art toward the amended claims. The Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection based on the Heithoff reference.

Rejection of claims 1-3, 5-6, 9-14, 16-17, 20-22, 41-42, and 44 under 35 U.S.C § 102(e)

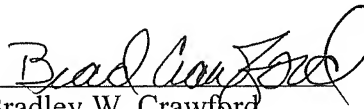
Claims 1-3, 5-6, 9-14, 16-17, 20-22, 41-42, and 44 stand rejected under 35 U.S.C. § 102(e) for allegedly being anticipated by Mahan *et al.* (U.S. Patent No. 7,026,155, effective filing date February 2, 1999; 'Mahan').

Applicants refer to their previous discussion of the priority property claimed under 35 U.S.C. 365(c) of PCT/US97/16593, and cite the same passages of the priority document. Therefore, the proper priority date for the rejected treatment claims is September 17, 1997, and Mahan is not available as prior art toward the amended claims. Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection based on the Mahan reference.

Allowance of the claims and passage of the case to issue are respectfully solicited. The Applicants urge the Examiner to contact the Applicants' undersigned representative at (312) 913-2114, if the Examiner believes that a discussion would expedite prosecution of this application.

Respectfully submitted,

Dated: September 18, 2007

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